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FISCAL IMPACT STATEMENT

LS 7631

BILL NUMBER: HB 1223

NOTE PREPARED: Jan 3, 2005

BILL AMENDED:

SUBJECT: Methamphetamine.

FIRST AUTHOR: Rep. Koch

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill requires the real estate disclosure form to disclose whether a property was used to manufacture methamphetamine or if the offense of dumping controlled substance waste was committed on the property. It also adds certain chemical reagents to the list of chemical reagents and precursors used in the manufacture of methamphetamine. The bill makes ephedrine and pseudoephedrine Schedule V controlled substances.

Effective Date: July 1, 2005.

Explanation of State Expenditures: *Real Estate Disclosure Form:* State Form 46234, the seller's residential real estate sales disclosure form, is required to be filled out and signed by the seller of residential real estate in the event of the sale, exchange of, installment sales contract for, or a lease with option to buy residential real estate that contains no more than four residential dwelling units.

The Indiana Professional Licensing Agency (PLA) would be required to modify state Form 46234 in order to reflect the changes specified by the bill. Given that the form is available electronically for downloading from the Indiana Real Estate Commission's website, expenditures required to modify Form 46234 should be absorbable within the Indiana PLA's budget.

Penalty Provision: In regards to committing a Class D felony, this bill expands the list of chemical reagents or precursors that one may be found in possession of with the intent to manufacture certain controlled substances. The bill includes certain forms of ephedrine or pseudoephedrine as Schedule V controlled substances. Currently, it is a Class D felony to possess, deliver, or manufacture a Schedule V controlled

substance in violation of state and federal law. The bill also reduces the list of ephedrine-related substances that one may be found in possession of more than 10 grams. The former provision could potentially increase Class D felony convictions, while the latter could potentially decrease such convictions.

A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$21,514 in FY 2004, ranging from a low of \$16,645 to a high of \$49,281. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The estimated average cost of housing a juvenile in a state juvenile facility was \$59,574, with the costs ranging from a low of \$52,420 to a high of \$77,674. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

Explanation of State Revenues: *Controlled Substance Excise Tax:* A tax is imposed upon a person who receives delivery of, takes possession of, or manufactures a controlled substance in violation of state or federal law. The tax on a Schedule V controlled substance is \$10 per gram, pill, capsule, hit, rock, or dosage, and would now apply to these drugs. Revenue generated from this tax is deposited in the Controlled Substance Tax Fund.

Penalty Provision: If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class D felony is \$10,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

Explanation of Local Expenditures: *Penalty Provision:* If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

Explanation of Local Revenues: *Penalty Provision:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: Professional Licensing Agency, Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Indiana Sheriffs' Association, Department of Correction, Professional Licensing Agency.

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